

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANIEL ROBERT WITCZAK,

Plaintiff,

v.

JARED D. LOZANO, et al.,

Defendants.

Case No. [20-cv-01566-HSG](#)

**ORDER DENYING REQUEST FOR
RECONSIDERATION**

Re: Dkt. No. 45

Plaintiff, an inmate at Valley State Prison, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. On July 27, 2021, the Court dismissed this action with prejudice for failure to state a claim, and entered judgment in favor of Defendants. Dkt. Nos. 36, 37. Plaintiff appealed. Dkt. No. 40. On November 10, 2021, the Ninth Circuit Court of Appeals dismissed the appeal for lack of jurisdiction, finding that Plaintiff had failed to timely file a notice of appeal. Dkt. No. 42. The Ninth Circuit's judgment took effect on December 1, 2021. Dkt. No. 43.


Now pending before the Court is Plaintiff's request for reconsideration. Plaintiff requests that this Court reconsider the Ninth Circuit's dismissal of his appeal because he has newly discovered evidence that his appeal was timely and that his timely appeal means that the district court has jurisdiction. Dkt. No. 45. Plaintiff states that he did not receive the appeal until August 2, 2021, was unable to file for access to the law library until August 10, 2021, and did not access the law library until on or about August 20, 2021. He argues that his August 31, 2021 notice of appeal was filed within 30 days after he received the order of dismissal on August 2, 2021, and that the notice of appeal is therefore timely. *See generally* Dkt. No. 45. The Court DENIES Plaintiff's request that this Court reconsider the Ninth Circuit's dismissal for lack of jurisdiction. This Court has no jurisdiction to review orders issued by the Ninth Circuit Court of Appeals. *Cf.*

28 U.S.C. § 1291 (appellate courts have jurisdiction over final decisions of district courts).

This order terminates Dkt. No. 45.

IT IS SO ORDERED.

Dated: 6/2/2022


HAYWOOD S. GILLIAM, JR.
United States District Judge

United States District Court
Northern District of California